IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
APPEAL FROM ORDER (STAMP) NO.27762 OF 2007
WITH
CIVIL APPLICATION (STAMP) NO.27764 OF 2007

Mrs. Charu Kishor Mehta ..Appellant.
v.
Mrs. Rekha Haresh Seth & Ors. ..Respondents.

Mr.N.H.Seervai, Sr.Counsel i/by T.N.Tripathi and Co. for the Appellant/Applicant.

Mr.Dinyar Madon, Sr.Adv. i/by Wadia Ghandy and Co. for the Respondent No.2.

Mr.Sanjay Jain i/by M/s. Haresh Mehta and Co. for the Respondent No.3.

Mr.N.F.Dhila with Mr.Amye Nabir i/by M/s. Hariani & Co. for the respondent no.4.

CORAM: J.H.BHATIA,J.
DATE: 4th December,2007.

P.C.

1. In view of the affidavit filed by Vijay Mehta the respondent no.2, which discloses that even though the meeting of the permanent trustees of the trust was called, the proposed\permanent trustees are not infact appointed by passing any resolution. Mr.Seervai the learned counsel for the appellant makes a statement that in view of this affidavit, it is not necessary to prosecute this appeal and, therefore, he seeks to withdraw the appeal. However, he makes a request that certain observations made by the trial Court in the impugned order may not be considered in future litigation because those observations are not subjected

to the judicial scrutiny in view of the withdrawal of the appeal. Mr.Jain the learned Senior Counsel for the respondents does not agree to this proposition. The observations made in the impugned order are based on certain observations in the judgment of Short Cause Suit No.1997 of 2006. That being a judgment on merits, is already challenged in an appeal. That will take care of the observations in the judgment. With these observations, the appeal stands disposed off as withdrawn.

2. As the appeal itself has been disposed off, civil application does not survive and stands disposed off accordingly.

(J.H.BHATIA,J.)